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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,309	12/15/2003	Thomas E. Creamer	BOC9-2003-0058 (429)	5479
40987	7590	11/29/2005	EXAMINER	
AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			PHUONG, DAI	
			ART UNIT	PAPER NUMBER
			2688	
DATE MAILED: 11/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,309

Applicant(s)

CREAMER ET AL.

Examiner

Dai A. Phuong

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/04/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. Claims 15-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are drawn to a “program” *per se* as recited in each preamble and as such are drawn to non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Fors et al. (Pub. No: 2004/0203788).

Regarding claim 1, Fors et al. disclose a gateway 214 serving as an interface between a mobile network 251 and a wireless network 210, wherein said gateway is configured to send a signal strength indicator to the mobile network thereby causing the mobile network to recognize the gateway as a valid path for handing off a call (fig. 2a, [0028] to [0030]).

Regarding claim 2, Fors et al. disclose all the limitation in claim 1. Further, Fors et al. disclose the gateway wherein the signal strength indicator is fabricated ([0030] to [0031]).

Regarding claim 3, Fors et al. disclose all the limitation in claim 1. Further, Fors et al. disclose the gateway wherein the wireless network is configured according to one of the 802.11 wireless communications protocols ([0016] to [0018]).

Regarding claim 4, Fors et al. disclose all the limitation in claim 1. Further, Fors et al. disclose the gateway wherein the gateway 214 routes the call from the mobile network 251 to a wireless access point 210 of the wireless network via a packet-switched network 211, such that

the call is conducted via a wireless communications link using the wireless access point (see fig. 2a, [0032] to [0033]).

Regarding claim 5, Fors et al. disclose all the limitation in claim 1. Further, Fors et al. disclose the gateway (see fig. 2b, [0019]) further comprising: a mobile network interface 251 comprising a transport interface configured to exchange mobile control channel signaling data with the mobile network and a voice channel interface configured to exchange audio data with the mobile network (see fig. 2b, [0019] and [0032] to [0033]); a mobile control and messaging component 216 configured to communicate with the mobile network via said transport interface (see fig. 2b, [0019] and [0027] to [0033]); a call control component configured 216 to format the mobile control channel signaling data from the mobile network for use over the packet-switched network (see fig. 2b, [0019] and [0027] to [0033]); a voice media conversion component 212 and 213 configured to format voice data for sending using a real-time streaming protocol over the packet-switched network (see fig. 2b, [0019] to [0022] and [0029] to [0033]); and an interface 215 to exchange call control data and voice data with the packet-switched network (see fig. 2b, [0019] and [0027] to [0033]).

Regarding claim 6, Fors et al. disclose all the limitation in claim 1. Further, Fors et al. disclose the gateway wherein the interface to the packet-switched network is a Session Initiation Protocol interface ([0021]).

Regarding claim 7, Fors et al. disclose within a gateway interface, a method of call control between a mobile network and a wireless network comprising: establishing, with a mobile network, a control messaging link for exchanging mobile control channel signaling data

and a voice channel link for exchanging audio data for a mobile call ([0027]); sending a signal strength indicator to the mobile network thereby causing the mobile network to recognize the gateway as a valid path for handing off the mobile call ([0028] to [0030]); establishing a communications link with a packet-switched network ([0028] to [0030]); and routing the mobile call from the mobile network to a wireless access point via the packet-switched network, such that the call is conducted via a wireless communications link using the wireless access point (see fig. 2a, [0032] to [0033]. Inherently, the system includes the necessary software, hardware, firmware or a combination thereof to accomplish the stated task or functionality).

Regarding claim 8, Fors et al. disclose all the limitation in claim 7. Further, Fors et al. disclose the gateway wherein the signal strength indicator is fabricated ([0028] to [0030]).

Regarding claim 9, Fors et al. disclose all the limitation in claim 7. Further, Fors et al. disclose the gateway said routing step comprising routing the mobile call to the wireless access point via the packet-switched network using Session Initiation Protocol ([0021]).

Regarding claim 10, Fors et al. disclose all the limitation in claim 7. Further, Fors et al. disclose the gateway wherein the wireless access point is an 802.11 compliant wireless access point and the wireless network is configured according to one of the 802.11 wireless communications protocols ([0018] and [0021]).

Regarding claims 11 and 15, this claim is rejected for the same reason as set forth in claim 7.

Regarding claims 12 and 16, this claim is rejected for the same reason as set forth in claim 8.

Regarding claims 13 and 17, this claim is rejected for the same reason as set forth in claim 9.

Regarding claims 14 and 18, this claim is rejected for the same reason as set forth in claim 10.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Labun et al. (Pub. No: 2003/0119527) media content from a cellular network connection

Sundquist et al. (Pub. No: 2004/0203785) transmission of voice over IP

Pan et al. (Pub. No: 20040192294) soft handoff between wireless network and gateway

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 703-305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dai Phuong
AU: 2685
Date: 09-01-2005

Nguyen Vo
9-2-2005

**NGUYEN T. VO
PRIMARY EXAMINER**